

REMARKS

Foreign Priority:

Applicant thanks the Examiner for acknowledging Applicant's claim to foreign priority under 35 U.S.C. § 119(a)-(d), and for confirming that the certified copy of the priority document has been received at the Patent Office.

Drawings:

The Examiner has also indicated that the drawings filed on June 25, 2001 have been accepted.

Allowable Subject Matter:

Applicant sincerely thanks the Examiner for indicating that claims 2-18, 21, 25-27, 32 and 35 have been allowed, and that although claims 47 and 50 have been objected to, these claims would be allowable if written in independent form.

Claim Rejections:

Claims 2-18, 21, 25-43, 46-50 and 58 are all of the claims pending in the present application, and currently claims 28-31, 33-34, 36-43, 46, 48-49 and 58 stand rejected.

35 U.S.C. § 102(e) Rejection - Claims 28-31, 34 and 38-42:

Claims 28-31, 34 and 38-42 remain rejected under 35 U.S.C. § 102(e) as being anticipated by the previously applied Vembu reference. Applicant, again, traverses the above rejection, in view of the following discussions.

In rejecting Applicant's arguments, the Examiner has again reiterated the position that there is no distinction between "estimated" and "measuring." Office Action, page 2, para. 2. In

support of this, the Examiner appears to ignore the language of the claim regarding “estimating” and finds a reference in the specification to “determining” a value.

It appears that the Examiner is improperly reading limitations from the specification into the claims.

Additionally and independently, the two “modes” disclosed by Vembu (i.e. “tracking mode” and “burst mode”) are two possible modes of a closed-loop power control algorithm. As disclosed in particular at col. 2, lines 26-28, the difference between these two modes is that in the burst mode the power increase is greater than the increase applied in tracking mode.

However, whatever the mode (i.e. “tracking mode” or “burst mode”) the power control algorithm used in Vembu remains a closed-loop power control algorithm.

Further, these two “modes” do not differ from one another having regard to their performances in fast changing environments and/or high mobile speed.

As explained in particular at col. 1, lines 62-67, at col. 4, lines 35-42, and also at col. 5, lines 31 or 51, the problem in Vembu is not fast changing environments or high mobile speed, but situations such as communication inside a building, or in bad weather, or when the communication path is blocked by a large building or other interfering structure.

At least for these reasons, Applicant submits that Vembu does not disclose or suggest at least the following features of claim 28 of the present application: “wherein said de-activation includes performing a different type of algorithm than said power control algorithm” and “wherein said different type of algorithm includes an algorithm showing better performances than said algorithm in fast changing environments and/or high mobile speed.”

As such, Applicant respectfully submits that Vembu fails to disclose, teach or suggest each and every feature of the present invention, as set forth in claim 28. Therefore, Vembu fails to anticipate the claimed invention as required under the provisions of 35 U.S.C. § 102(e). Accordingly, Applicant hereby requests the Examiner reconsider and withdraw the present 35 U.S.C. § 102(e) rejection of this claim, and its respective dependent claims.

35 U.S.C. § 102(e) Rejection - Claims 28, 43, 58 and 59:

Claims 28, 43, 58 and 59 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the previously applied Kansakoski reference. In view of the following discussion, Applicant also traverses the above rejection.

Applicant notes that Kansakoski discloses using a closed loop power control algorithm to adjust for Doppler shift between a moving mobile terminal 10 and a fixed base station 30. *See* Figure 4, and col. 8, lines 8-34. The disclosed power control algorithm can modify the power control commands by using an estimate of the velocity of the mobile station 10. The system further uses a power control block 72 such that “during an integration period [the] power control can be disabled and, at the end of the integration period, the power control commands can be enabled,” where the “integration period” can be a period of time where the mobile station 10 is operating in a high Doppler condition (i.e. moving at a high velocity). *See* Kansakoski, col. 12, lines 8-20.

In rejecting the present claims, the Examiner continues to assert that Kansakoski discloses using a “different type of algorithm”, and specifically an “open loop algorithm” during

de-activation. For support, the Examiner cites col. 3, line 49 to col. 4, line 13, and claim 1, of Kansakoski.

As discussed above, the power control algorithm used in Kansakoski is a closed-loop power control algorithm (see for ex. col. 3 line 57).

In the closed-loop power control algorithm (as recalled for example at page 1, lines 19-21 of the present application) the receiver (for example mobile station as considered by Kansakoski) estimates the quality of the link with the receiver (base station in this example), derives power control commands to be sent to the transmitter, and sends these power control commands to the transmitter, in order for the transmitter to adjust its transmit power based on these power control commands.

In this context, Kansakoski proposes two possible ways of deriving power control commands, leading to two kinds of power control commands, called “first” and “second” power control commands. *See* for example col. 4, lines 5-13.

However, whatever the kind of power control command, i.e. “first” or “second”, the power control algorithm used in Kansakoski remains a closed-loop power control algorithm.

On the contrary, in the open-loop power control algorithm (as recalled for example at page 1 lines 18-19 of the present application) no power control commands are used; a mobile station “simply” adjusts its transmit power based on the power level received from the base station.

At least for these reasons, Applicant submits that Kansakoski does not disclose or suggest at least the features of using a “different kind of algorithm (i.e. claim 28), or more specifically, an “open-loop power control algorithm” (i.e. claims 43 and 58).

As such, Applicant respectfully submits that Kansakoski fails to disclose, teach or suggest each and every feature of the present invention, either expressly or inherently, as set forth in claims 28 and 58. Therefore, Kansakoski fails to anticipate the claimed invention as required under the provisions of 35 U.S.C. § 102(e). Accordingly, Applicant hereby requests the Examiner reconsider and withdraw the present 35 U.S.C. § 102(e) rejection of this claim, and its respective dependent claims.

35 U.S.C. § 102(e) Rejection - Claims 46 and 49:

Claims 46 and 49 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the previously applied Haartsen et al.

In reviewing the Haartsen reference, Applicant submits that Haartsen is no more relevant than the Vembu reference. Specifically, Haartsen discloses “measuring” multiple RSSI values, taking an average RSSI and comparing the average with a threshold RSSI value. At no point does Haartsen disclose estimating an average RSSI value. Thus, Haartsen suffers from the same drawbacks as Vembu and fails to anticipate the claims for the same reason as Vembu.

Additionally, in Haartsen the power control algorithm is always performed. Specifically, in Haartsen there is no disclosure of “regularly estimating if a criterion is met as to whether said power control algorithm should better not be performed” and/or “not performing any power control algorithm in accordance with a result of said estimating step.” See claim 46.

As such, Applicant respectfully submits that Haartsen fails to disclose, teach or suggest each and every feature of the present invention, as set forth in claim 46. Therefore, Haartsen fails to anticipate the claimed invention as required under the provisions of 35 U.S.C. § 102(e). Accordingly, Applicant hereby requests the Examiner reconsider and withdraw the present 35 U.S.C. § 102(e) rejection of this claim, and its respective dependent claim 49.

35 U.S.C. § 103(a) Rejection - Claims 33, 36 and 37:

Claims 33, 36 and 37 remain rejected under 35 U.S.C. § 103(a) as being unpatentable over Vembu, in view of “well known prior art.”

As an initial matter, Applicant notes that these claims depend on claim 28, and because what is “well known” does not cure the deficient teachings of Vembu with regard to claim 28, Applicant submits that these claims are also allowable, at least by reason of their dependence.

However, additionally and independently, with regard to claim 33, the claim requires an “estimated signal-to-interference ratio”. *See* claim 33. However, the Examiner only takes official notice that the use of “signal-to-interference ratios” is known. Thus, the Examiner’s argument fails to address the actual language of the claim. Specifically, the claim requires the use of an “*estimated* signal-to-interference ratio” (emphasis added). Thus, the Examiner’s official notice is of no effect and does not render the present claim obvious as it fails to teach or suggest each and every feature of the claim 33.

In view of the foregoing, the Examiner has failed to establish a *prima facie* case of obviousness with respect to claims 33, 36 and 37 as required under 35 U.S.C. § 103(a).

RESPONSE UNDER 37 C.F.R. §1.116
Application Number: 09/287,264

Our Ref: Q53917
Art Unit: 2686

Accordingly, Applicant hereby requests the Examiner reconsider and withdraw the above rejection of these claims.

35 U.S.C. § 103(a) Rejection - Claim 48:

Claim 48 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Haartsen in view of "well known prior art." However, as Haartsen fails to teach or suggest every feature of claim 46, the Examiner's rejection of this claim also fails, and Applicant hereby submits that claim 48 is also allowable.

Conclusion:

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

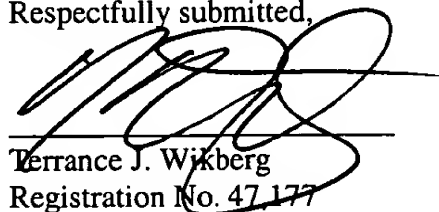
SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Respectfully submitted,



Terrance J. Wikberg
Registration No. 47,177

Date: July 6, 2004